



BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

TOM FORESE - Chairman  
BOB BURNS  
ANDY TOBIN  
BOYD DUNN  
JUSTIN OLSON

RECEIVED  
AZ CORP COMMISSION  
DOCKET CONTROL  
2018 SEP 11 P 2:25

In the matter of:

TITAN FUNDING GROUP I, LLC, an  
Arizona limited liability company,

TITAN CAPITAL REAL ESTATE FUND I,  
LLC, an Arizona limited liability company

TITAN CAPITAL HOLDINGS LLC, a  
Nevada limited liability company,

ADAM W. CHILD and ERIN M. CHILD,  
husband and wife,

RODERICK R. RICKERT, a single man,

Respondents.

DOCKET NO. S-21054A-18-0304

**NOTICE OF OPPORTUNITY FOR HEARING  
REGARDING PROPOSED ORDER TO CEASE  
AND DESIST, ORDER FOR RESTITUTION,  
ORDER FOR ADMINISTRATIVE  
PENALTIES, AND ORDER FOR OTHER  
AFFIRMATIVE ACTION**

Arizona Corporation Commission

**DOCKETED**

SEP 11 2018

**DOCKETED BY**

**NOTICE: EACH RESPONDENT HAS 10 DAYS TO REQUEST A HEARING**

**EACH RESPONDENT HAS 30 DAYS TO FILE AN ANSWER**

The Securities Division ("Division") of the Arizona Corporation Commission ("Commission") alleges that respondents Titan Funding Group I, LLC ("TFG"), Titan Capital Real Estate Fund I, LLC ("TCREF"), Titan Capital Holdings LLC ("Titan Capital"), Adam Child, and Roderick Rickert (collectively, "Respondents") have engaged in acts, practices, and transactions that constitute violations of the Securities Act of Arizona, A.R.S. § 44-1801 *et seq.* ("Securities Act").

The Division also alleges that Rickert is a person controlling TFG, TCREF, and Titan Capital within the meaning of A.R.S. § 44-1999(B), so that he is jointly and severally liable under A.R.S. § 44-1999(B) to the same extent as these entities for their violations of the antifraud provisions of the Securities Act.

1 The Division also alleges that Titan Capital is a person controlling TFG within the meaning of  
2 A.R.S. § 44-1999(B), so that it is jointly and severally liable under A.R.S. § 44-1999(B) to the same  
3 extent as TFG for its violations of the antifraud provisions of the Securities Act.

4 **I.**

5 **JURISDICTION**

6 1. The Commission has jurisdiction over this matter pursuant to Article XV of the Arizona  
7 Constitution and the Securities Act.

8 **II.**

9 **RESPONDENTS**

10 2. Roderick R. Rickert is a single man who at all relevant times resided in Arizona.

11 3. Adam Child is a married man who at all relevant times resided in Arizona.

12 4. TFG was formed in Arizona on July 7, 2011, as a member-managed company with Titan  
13 Capital as the sole member-manager.

14 5. Titan Capital was formed in Nevada on September 8, 2010, and has been registered to  
15 do business in Arizona as a foreign entity since December 28, 2010. The original Articles of  
16 Organization filed with the Nevada Secretary of State and the corporate filings with the Commission list  
17 Rickert as the managing-member of Titan Capital.

18 6. During the timeframe relevant to this Notice, Child was TFG's president. TFG lists  
19 Rickert and Child among the "key managers and employees" in materials given to the investors and  
20 offerees described below.

21 7. TCREF is a Delaware limited liability company formed on September 4, 2013. It did not  
22 register as a foreign entity in Arizona.

23 8. In its operating agreement, TCREF states that it is managed by TCG Management LLC,  
24 also a Delaware company. Private placement memorandums for TCREF list Child and Rickert among  
25 its key managers and employees. TCREF's marketing materials describe TCREF's executive team, with  
26

1 Rickert as the CEO and Child as the President. In its private placement memorandum, TCREF says that  
2 Titan Capital will originate loans on behalf of TCREF.

3 9. Erin Child (“Respondent Spouse”) is an Arizona resident and has been the spouse of  
4 Adam Child since 2012. Respondent Spouse is joined in this action under A.R.S. § 44-2031(C) solely  
5 for purposes of determining the liability of the marital communities.

6 10. From 2012 through 2015, Respondent Adam Child was acting for his own benefit and  
7 for the benefit or in furtherance of his marital community.

### 8 III.

### 9 FACTS

10 11. In 2010, Rickert operated a business that assisted people in buying foreclosure  
11 properties. Doing business as “INFOclosure,” Rickert’s company produced software that listed  
12 distressed properties being sold at foreclosure auctions. INFOclosure also assisted with purchasing the  
13 properties at auction.

14 12. In late 2010, Rickert created Titan Capital to make hard-money loans—i.e. loans of  
15 typically less than 24 months with relatively higher interest rates—to purchasers of real property,  
16 including foreclosure properties. The typical borrower would use the funds to “fix-and-flip” a property,  
17 i.e. purchase a foreclosed, bank-owned or short-sale, single-family property, perform maintenance and  
18 reconstruction, then sell the property. Titan Capital would secure its loan to these borrowers with a  
19 mortgage or deed of trust recorded on the property. Titan Capital hired Adam Child to be its president  
20 in early 2011 to operate this lending business.

21 13. In 2013, Rickert and Child created TFG and TCREF to raise funds for Titan Capital’s  
22 lending operations. TFG and TCREF would obtain funds from investors, pool those funds, then transfer  
23 funds to Titan Capital. Titan Capital would make loans to persons to purchase properties to “fix-and-  
24 flip” and Titan Capital held a first-position lien on such property. Titan Capital also lent money to  
25 persons to perform construction on the properties where Titan Capital held a first-position lien. The  
26 construction loan would be secured by a second-position lien.

1           14. Titan Capital would charge the borrowers an interest rate between 12% and 18%. It  
2 would make its profits on the spread between this interest rate and the 10 – 11% that TCREF/TFG  
3 had to pay to investors.

4           15. Titan Capital would receive a deed of trust securing the loan. Titan Capital was then  
5 to enter a pledge agreement with TCREF/TFG where Titan Capital would assign its beneficial  
6 interest in the deed of trust to TCREF or TFG.

7           16. Beginning in February 2013, TFG began seeking investors and offering notes to  
8 potential investors.

9           17. From February 2013 through September 2015, TFG sold notes to at least 25 persons  
10 for a total of at least \$2,757,429. The notes were to accrue interest at either 10% or 11% per annum.  
11 TFG would pay the investor monthly interest payments for four years then a balloon payment on the  
12 maturity date. These investors have received returns totaling approximately \$463,977.

13           18. Beginning in October 2013, TCREF began seeking investors and offering limited  
14 liability company membership interests to potential investors.

15           19. From October 2013 through September 2015, TCREF sold limited liability company  
16 membership interests to at least eight persons for a total of at least \$3,697,000. TCREF represented  
17 to investors that TCREF would make annual distributions to investors from TCREF revenues that  
18 would equal 10% of the amount invested by each respective investor. The TCREF investors have  
19 received returns totaling approximately \$450,147.

20           20. TFG and TCREF found these offerees and investors by emailing potential investors on  
21 customer lists purchased from marketing firms, holding seminars, contacting existing acquaintances,  
22 obtaining referrals from existing investors, and by contacting customers of Child's and Rickert's other  
23 businesses.

24           21. Child personally offered notes and membership interests to at least 20 of the TFG and  
25 TCREF investors.

22. Rickert personally offered notes and membership interests to at least 10 of the TFG and TCREF investors.

**Misrepresentations and omissions regarding use of investor funds**

23. TFG and TCREF funds were transferred to Titan Capital. Titan Capital then commingled those funds with its capital and capital from related entities. When Titan Capital failed in October 2015, TFG and TCREF failed too, resulting in investors losing almost the entire amount invested. In February 2016, Rickert caused the Titan Capital and its related entities to go into voluntary receivership. After a few months of the receiver locating assets and reviewing records, it was revealed that Titan Capital's operations differed significantly from representations made to TFG/TCREF investors: it had transferred only a portion of its funds to escrow/title companies, owned few significant real property and deed of trust assets, had made large transfers to Rickert-controlled entities, and may have been insolvent almost from its inception.

24. TCREF and TFG had represented to investors and offerees that their funds would be used by Titan Capital to fund hard money loans to borrowers who purchase, rehab, and sell residential properties; Titan Capital's loan would be secured by a deed of trust that would be pledged to TCREF and TFG.

25. Through representations by TFG/TCREF and their employees, several investors understood that their funds would only go towards loans and that TFG/TCREF and Titan Capital would pay for operational expenses with revenues from the interest charged to borrowers.

26. In TFG's private placement memorandum, which several investors received, TFG estimated that 100% of funds raised from investors would go to investment, with \$0 going to the company's operational expenses.

27. TFG's private placement memorandum also describes in detail its lending operations—i.e. transferring money to Titan Capital to loan to borrowers—then states that investor funds would be used to expand the existing loan program.



1           28.     TCREF further represented to several investors that Titan Capital was a licensed  
2 mortgage broker in Arizona and Nevada and was pursuing similar licensing in California.

3           29.     TCREF and TFG described mortgage broker activities when they represented in their  
4 PPMs that Titan Capital would pledge 100% of its interest in pools of loans, deeds of trust, mortgages  
5 and similar interests that originated from Titan Capital's financing activities. This would secure  
6 TCREF's and TFG's obligations to their investors. A copy of the pledge agreement was included in  
7 TCREF's and TFG's private placement memorandums.

8           30.     Under A.R.S. § 6-906(c), mortgage brokers "shall immediately deposit all monies  
9 received by the mortgage broker in an escrow account with an escrow agent licensed pursuant to [A.R.S.  
10 Title 6, Chapter 7]. Withdrawals shall only be disbursed according to the terms of the escrow  
11 instructions. The escrow agent shall not be the mortgage broker." The same statute requires that  
12 mortgage brokers not commingle their appraisal and credit investigation fees with the broker's other  
13 monies.

14           31.     From 2013 through 2015, TFG and TCREF received approximately \$6,454,429 from  
15 investors.

16           32.     These funds were commingled with funds from Titan Capital, including approximately  
17 \$12.2 million of capital that was to go to Titan Capital's primary business: making hard-money loans to  
18 borrowers who purchase, rehab, and sell residential properties.

19           33.     Of the approximately \$18.6 million of Titan Capital's funds that should have gone to  
20 lending, Titan Capital only transferred approximately \$8.8 million to escrow and title companies. Titan  
21 received only approximately \$6.8 million from the title/escrow companies in return—far less than the  
22 principal amount transferred.

23           34.     During 2013 – 2015, Titan Capital made several transfers that were not for funding  
24 loans to borrowers:

25                 a)     A net of approximately \$1.4 million to Rickert's entity, Infoclosure, and other  
26 Rickert-controlled entities;

- 1                   b)       Approximately \$4.5 million to pay an equity fund that had lent money to Titan  
2 Capital;
- 3                   c)       Approximately \$4.7 million for probable business expenses of Titan Capital  
4 and other related or Rickert-controlled entities;
- 5                   d)       Approximately \$1.9 million to a condominium development in Flagstaff  
6 managed by one of Titan Capital's and TCREF's major investors;
- 7                   e)       Approximately \$1.5 million to Titan Capital Management, an entity controlled  
8 by Rickert and Child through which they were to obtain payment;
- 9                   f)       Approximately \$223,000 for Child's expenses including child support  
10 payments and payments to the IRS; and
- 11                  g)       Approximately \$191,000 for Rickert's expenses.

12           35.       Because of these various transfers and failure to conduct its business as represented,  
13 Titan Capital's assets were insufficient to pay even a fraction of the amount owed to TFG/TCREF  
14 investors. In 2015, Titan Capital, TFG, TCREF and other related entities filed for receivership. The  
15 receiver's reports show that in May 2016, Titan Capital's assets consisted of four properties that the  
16 receiver sold for \$62,703 of net proceeds; interests in 10 performing loans producing monthly income  
17 of \$1,793; interests in four loans in default; five contracts for deeds of trust; ownership of two deeds  
18 of trust; and a construction loan that later netted \$32,865 for the receiver. In two years of managing  
19 the receivership, identifying and liquidating the entities' assets, the receiver was only able to collect  
20 a total of \$234,191.64.

21       **Omissions relevant to Adam Child's qualifications**

22           36.       In TFG and TCREF private placement memorandums and offering materials,  
23 Respondents represented that a key officer, Adam Child, was a competent manager with a proven  
24 track record of success in real estate financing.

37. Respondents omitted material information that would allow investors to evaluate Respondents' claims of Child's past success, the claims of Respondents' ability to generate returns, and Child's ability to manage a company that would generate these returns. These omissions include:

a) On June 8, 2009, the Coconino County Superior Court entered judgment against Child for \$2,957,227 which includes \$1,956,000 treble damages for fraud and racketeering committed by Child in a real estate development enterprise near Flagstaff, Arizona.

b) In 2009, Child filed for bankruptcy protection. In his bankruptcy, Child sought to discharge the judgment described above along with \$2,800,004 of unsecured claims which included \$263,945 of credit card debt, several deficiencies on foreclosed properties totaling over \$405,000, unpaid office rent, unpaid HOA fees, a \$40,000 deficiency on an automobile lease, and a \$570,000 personal loan. Child's bankruptcy schedules also list \$130,000 of unpaid taxes and \$60,000 of unpaid child and spousal support.

c) On December 3, 2008, the Department of Financial Institutions found that through statements made by Child, Child's company, Child Mortgage Corporation, violated A.R.S. § 6-909(L) (making a false promise or misrepresentation or conceal an essential or material fact in the course of the mortgage broker business), § 6-909(M) (failure to truthfully account for the monies belonging to a party to a mortgage loan transaction or failure to disburse monies in accordance with his agreements) and § 6-909(N) (engaging in illegal or improper business practices). In a consent order signed by Child, DFI revoked the entity's mortgage broker license and ordered payment of a \$2,705 penalty.

#### IV.

**VIOLATION OF A.R.S. § 44-1841**

**(Offer or Sale of Unregistered Securities)**

38. From on or about February 2013 through 2015, Respondents offered or sold securities in the form of investment contracts and notes, within or from Arizona.





1 c) Representing to TFG and TCREF investors that Child, a top Titan Capital  
2 executive, had success in the real estate lending industry without disclosing to several investors  
3 information that would be material to assessing the accuracy of these representations, namely: Child's  
4 past lawsuit in Coconino County, his bankruptcy, and his entity's loss of its mortgage broker license;

5 44. This conduct violates A.R.S. § 44-1991.

## 6 VII.

### 7 CONTROL PERSON LIABILITY PURSUANT TO A.R.S. § 44-1999

8 45. From at least 2011 through 2015, Rickert directly or indirectly controlled Titan  
9 Capital, TFG and TCREF within the meaning of A.R.S. § 44-1999. Therefore, Rickert is jointly and  
10 severally liable to the same extent as these entities for their violations of A.R.S. § 44-1991.

11 46. From at least 2011 through 2015, Titan Capital directly or indirectly controlled TFG  
12 within the meaning of A.R.S. § 44-1999. Therefore, Titan Capital is jointly and severally liable to  
13 the same extent as TFG for its violations of A.R.S. § 44-1991.

## 14 VIII.

### 15 REQUESTED RELIEF

16 The Division requests that the Commission grant the following relief:

17 1. Order Respondents to permanently cease and desist from violating the Securities Act,  
18 pursuant to A.R.S. § 44-2032;

19 2. Order Respondents to take affirmative action to correct the conditions resulting from  
20 Respondents' acts, practices, or transactions, including a requirement to make restitution pursuant to  
21 A.R.S. § 44-2032;

22 3. Order Respondents to pay the state of Arizona administrative penalties of up to \$5,000  
23 for each violation of the Securities Act, pursuant to A.R.S. § 44-2036;

24 4. Order that the marital community of Respondent Child and Respondent Spouse be  
25 subject to any order of restitution, rescission, administrative penalties, or other appropriate affirmative  
26 action pursuant to A.R.S. § 25-215; and

5. Order any other relief that the Commission deems appropriate.

## IX.

## HEARING OPPORTUNITY

Each Respondent including Respondent Spouse may request a hearing pursuant to A.R.S. § 44-1972 and A.A.C. R14-4-306. **If a Respondent or Respondent Spouse requests a hearing, the requesting Respondent must also answer this Notice.** A request for hearing must be in writing and received by the Commission within 10 business days after service of this Notice of Opportunity for Hearing. The requesting Respondent must deliver or mail the request to Docket Control, Arizona Corporation Commission, 1200 W. Washington, Phoenix, Arizona 85007. Filing instructions may be obtained from Docket Control by calling (602)542-3477 or on the Commission's website at <http://www.azcc.gov/divisions/hearings/docket.asp>.

If a request for a hearing is timely made, the Commission shall schedule the hearing to begin 20 to 60 days from the receipt of the request unless otherwise provided by law, stipulated by the parties, or ordered by the Commission. If a request for a hearing is not timely made the Commission may, without a hearing, enter an order granting the relief requested by the Division in this Notice of Opportunity for Hearing.

Persons with a disability may request a reasonable accommodation such as a sign language interpreter, as well as request this document in an alternative format, by contacting Kacie Cannon, ADA Coordinator, voice phone number (602) 542-3931, e-mail [kcannon@azcc.gov](mailto:kcannon@azcc.gov). Requests should be made as early as possible to allow time to arrange the accommodation. Additional information about the administrative action procedure may be found at <http://www.azcc.gov/divisions/securities/enforcement/AdministrativeProcedure.asp>

**X.**

### ANSWER REQUIREMENT

Pursuant to A.A.C. R14-4-305, if a Respondent or Respondent Spouse requests a hearing, the requesting Respondent must deliver or mail an Answer to this Notice of Opportunity for Hearing to

1 Docket Control, Arizona Corporation Commission, 1200 W. Washington, Phoenix, Arizona 85007,  
2 within 30 calendar days after the date of service of this Notice. Filing instructions may be obtained  
3 from Docket Control by calling (602)542-3477 or on the Commission's website at  
4 <http://www.azcc.gov/divisions/hearings/docket.asp>.

5 Additionally, the answering Respondent must serve the Answer upon the Division. Pursuant  
6 to A.A.C. R14-4-303, service upon the Division may be made by mailing or by hand-delivering a  
7 copy of the Answer to the Division at 1300 West Washington, 3<sup>rd</sup> Floor, Phoenix, Arizona, 85007,  
8 addressed to Ryan Millecam.

9 The Answer shall contain an admission or denial of each allegation in this Notice and the  
10 original signature of the answering respondent or respondent's attorney. A statement of a lack of  
11 sufficient knowledge or information shall be considered a denial of an allegation. An allegation not  
12 denied shall be considered admitted.

13 When the answering Respondent intends in good faith to deny only a part or a qualification  
14 of an allegation, the Respondent shall specify that part or qualification of the allegation and shall  
15 admit the remainder. The answering Respondent waives any affirmative defense not raised in the  
16 Answer.

17 The officer presiding over the hearing may grant relief from the requirement to file an Answer  
18 for good cause shown.

19 Dated this 11<sup>th</sup> day of September 2018.

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21 

22 Mark Dinell  
23 Interim Director of Securities  
24  
25  
26